

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

TENTATIVE ORDER NO. R9-2002-0291
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST
RYLAND HOMES OF CALIFORNIA, INC.
VIOLATIONS
OF
CALIFORNIA WATER CODE §§ 13267, 13383, AND 13376
AND
STATE WATER RESOURCES CONTROL BOARD
ORDER NO. 99-08-DWQ

The San Diego Regional Water Quality Control Board (hereafter Regional Board), having held a public hearing on September 10, 2003, to hear evidence and comments on the allegations contained in Complaint No. R9-2003-0162, dated June 5, 2003, and on the recommendation for administrative assessment of Civil Liability pursuant to Water Code section 13385 in the amount of \$88,850 finds as follows:

1. Ryland Homes of California, Inc. owns the 73.1 acre property described as “Serenada” located along Jackson Avenue and Nutmeg Street, City of Murrieta, Riverside County, California.
2. Ryland Homes of California, Inc. began construction activity at the Serenada site on September 1, 2002.
3. The State Water Resources Control Board (hereafter State Board) adopted *Order No. 92-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* on 20 August 1992 to address storm water discharges from construction activity resulting in the soil disturbance of five acres or more. On 19 August 1999, the State Board updated Order No. 92-08-DWQ with *Order No. 99-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity* (Construction Storm Water Permit).
4. Ryland Homes of California, Inc. discharged sediment to a Municipal Separate Storm Sewer System and waters of the nation without submitting a report of waste discharge in violation of Water Code section 13376 and in violation of State Board Order No. 99-08-DWQ section A.2. Sediment was discharged from the Serenada site to Murrieta Creek via the City of Murrieta’s MS4 on at least four days: January 28, 2003, February 11, 2003, February 13, 2003, and February 28, 2003.
5. Ryland Homes of California, Inc. failed to implement its Storm Water Pollution Prevention Plan (SWPPP) by failing to implement and or maintain Best Management Practices (BMPs) in violation of State Board Order No. 99-08-DWQ section C.2 on at least 56 days: October 28, 2002; December 17, 2002; January 2, 2003; January 9, 2003;

January 17, 2003; February 11, 2003; February 13, 2003; February 14, 2003; February 21, 2003; and February 28 through April 15, 2003.

6. Ryland Homes of California, Inc. filed a Notice of Intent (NOI) to comply with State Board *Order No. 99-08-DWQ* for the Serenada site that was received by the State Board on March 11, 2003 (WDID No. 9 33S320505). It is the responsibility of the landowner to obtain coverage under the Construction Storm Water Permit prior to the commencement of construction activities. Water Code section 13376 requires “any person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state...shall file a report of the discharge in compliance with the procedures set forth in Section 13260,...” Therefore, Ryland Homes of California, Inc. violated Water Code section 13376 from September 1, 2002 to March 10, 2003 for a total of 191 days.
7. On March 11, 2003, the Regional Board pursuant to Water Code section 13267 and 13383 directed Ryland Homes of California, Inc. to submit a technical report to the Regional Board by March 23, 2003. Ryland Homes of California, Inc. failed to submit an adequate report to the Regional Board until June 5, 2003, resulting in 68 days of violation of Water Code sections 13267 and 13383.
8. Consideration of the factors prescribed in California Water Code Section 13385(e) based upon information available to the Regional Board prior to the hearing and described in greater detail in *California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained In Complaint No. R9-2003-0162, Ryland Homes of California, Inc., June 5, 2003* supported assessment of civil liability in the amount of \$158,350 as follows:
 - a. \$10,000 per day for discharging sediment to “Waters of the United States” for four days for a total of \$40,000;
 - b. \$1,500 per day for failing to implement an adequate Storm Water Pollution Prevention Plan (SWPPP) for 68 days for a total of \$102,000 (Note, the Technical Analysis and Complaint inaccurately counted the days of inadequate SWPPP as 68 days instead of 56.);
 - c. \$50 per day for failing to file a Notice of Intent (NOI) for 191 days of violation of Water Code section 13376 for a total of \$9,550; and
 - d. \$100 per day for failing to submit the technical report for 68 days of violation of Water Code sections 13267 and 13383 for a total of \$6,800.
9. Based upon a settlement reached between the Regional Board Executive Officer and Ryland Homes of California, Inc., liability will not be assessed for two of the four days of sediment discharge and for 21 of the 56 days of inadequate SWPPP implementation. Therefore civil liability pursuant to Water Code section 13385 in the amount of \$88,850 shall be assessed as follows:

- a. \$10,000 per day for discharging sediment to "Waters of the United States" for two days (February 11, 2003 and February 13, 2003) for a total of \$20,000;
 - b. \$1,500 per day for failing to implement an adequate Storm Water Pollution Prevention Plan (SWPPP) for 35 days (October 28, 2002; December 17, 2002; January 2, 2003; January 9, 2003; January 17, 2003; February 11, 2003; February 13, 2003; February 14, 2003; February 21, 2003; February 28, 2003 through March 23, 2003; April 14, 2003; and April 15, 2003) for a total of \$52,500;
 - c. \$50 per day for failing to file a Notice of Intent (NOI) for 191 days of violation of Water Code section 13376 for a total of \$9,550; and
 - d. \$100 per day for failing to submit the technical report for 68 days of violation of Water Code sections 13267 and 13383 for a total of \$6,800.
10. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.
 11. Ryland Homes of California, Inc. has committed to comply with State Board Order No. 99-08-DWQ at the Serenada site as well as all existing and future sites within the San Diego Region.
 12. Ryland Homes of California, Inc. waives its right to petition this Order to the California State Water Resources Control Board.

IT IS HEREBY ORDERED that civil liability is imposed on Ryland Homes of California, Inc. in the amount of eighty-eight thousand eight hundred and fifty dollars (\$88,850) and that the rationale for the assessment contained in *California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained In Complaint No. R9-2003-0162, Ryland Homes of California, Inc., June 5, 2003* is hereby incorporated into this order.

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on September 10, 2003.

Tentative

JOHN H. ROBERTUS
Executive Officer